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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 5TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR. JUSTICE V. GOPALA GOWDA

WRIT PETITION No.219/1994

BETWEEN:

Laxman santu Pisale,
age major,
occ: Agriculture,
R/o.Belgaum.

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..PETITIONER

(By Sri R.U.Goulay, Advocate)

AND:

1. The Chairman,
Land Tribunal,
Belgaum.
2. The State of Karnataka,
Represented by P.R.O.
Appellate Authority, Belgaum.
3. Sri. Ashok Dattajirao
Father fekar, (Shitole),
age: major, Occ: Service,
R/o.14, Roop Mahal,
Opposite Mahim Railway
Station, Bombay-11.
4. Sri. Yellapna Rama Desai,
age major, Occ: Agriculture,
R/o.Benakanahalli,
Taluk Belgaum.

..RESPONDENTS

(By Sri Ravi.S. Balikai for R-4,
Miss.Bharathi Nagesh, AGA for R-1&2,
Sri.V.R. Datar for R-3)

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This Writ Petition is filed under Articles 226 & 227 of the Constitution of India praying to call for the entire records in LRA.No.91/88 on the file of the District Land Appellate Authority at Belgaum, etc.,

This Writ Petition is coming on for hearing this day, the Court made the following:-

O R D E R

Petitioner-claimant before the Land Tribunal challenging the impugned order dated 12.4.1988 urging the following grounds.

2. The application filed by him seeking amendment to Form No.7 in respect of land bearing R.S.No.163/4/2 for 20 guntas was in addition to the extent of 2.00 acres of land already mentioned in Form No.7. The Tribunal without taking ^{into} ~~con-~~ sideration the relevant aspect of the case rejected the claim vide its order dated 11.2.1981. That order was the subject matter of the writ petition filed before this Court in W.P. No.15582/85. This Court allowed the writ petition, quashed the said order dated 11.2.1981 and directed the Tribunal to take the amendment application on record, consider the case of the petitioner and to dispose of the same. After the matter was remitted back, Tribunal has passed

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the impugned order rejecting the amendment application holding that the main Form No.7 application was disposed of by its order dated 6.11.1975 granting occupancy rights in respect of the land claimed by the petitioner, which order was not challenged either by the petitioner or by the contesting respondents. That order was challenged in appeal. Learned counsel for the petitioner Mr.Goulay submits that an application under Rule 9(5) of the erstwhile Rules was filed before the Appellate Authority seeking permission to adduce additional evidence. Pending consideration of the said application, the appellate authority was abolished. The matter got transferred to this Court at the instance of the petitioner. Therefore, he would submit that this writ petition has to be allowed and the matter has to be remitted back to the Tribunal for fresh consideration, as he has got additional evidence to be placed on record, in support of the case of the petitioner.

3. I have perused the petition averments, impugned order and the submission of both the learned counsel appearing for the parties. As could be seen from the impugned order dated 12.4.1988 a specific finding is given with regard to the claim of the petitioner that his claim was

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considered and the Tribunal granted occupancy rights by its order dated 6.11.1975. Therefore, the question of considering the amendment application does not arise. Since the order dated 6.11.1975 is not challenged either before this Court or before the appellate authority, it becomes final. In view of the finding recorded by the Tribunal, the rejection of the amendment application, in my view is legal and valid. No case was pending before the Tribunal for consideration of the amendment application. Therefore, the submission of the learned counsel appearing for the petitioner is not tenable. In this view of the matter, the order passed by the Tribunal does not call for interference.

Writ Petition is dismissed. Rule is discharged.
No costs.



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Sd/-
JUDGE